

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KAMME O,	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	CIVIL ACTION No. 4:17-cv-03877
	§	
TEXAS A&M UNIVERSITY, ET. AL.,	§	
<i>Defendants</i>	§	

**DEFENDANTS’ REPLY IN SUPPORT OF THEIR MOTION TO DISMISS
PLAINTIFF’S FIRST UNOPPOSED AMENDED COMPLAINT**

TO THE HONORABLE MAGISTRATE JUDGE NANCY K. JOHNSON:

Plaintiff’s Complaint must be dismissed because her claims against these Defendants are either barred by Defendants’ immunity or Plaintiff fails to state a viable claim for relief. Although Plaintiff filed a response to Defendants’ Motion to Dismiss she fails to address any of the arguments Defendants made supporting their request to dismiss her Complaint. Moreover, nothing in Plaintiff’s Complaint or her Response establishes any reason why (1) her claims are not barred by Defendants’ Immunity or (2) her claims are viable. *See* Plaintiff Kamme O’s Amended Complaint and Response to Motion to Dismiss. [DKTs 23 and 30]

Plaintiff’s claims must be dismissed because they are either jurisdictionally barred by Defendants’ Eleventh Amendment Immunity or they are not valid claims for which relief can be granted. Plaintiff’s ADEA claim and Whistleblower claim are barred because she cannot plead a valid waiver of Defendants’ Immunity. Plaintiff’s Title IX discrimination claim is barred because Title VII provides the exclusive remedy for employment discrimination claims. Plaintiff’s retaliation claims fail because Plaintiff did not engage in any protected activity as defined by Title IX or Title VII nor can she show that her protected activity caused her termination. Additionally,

Plaintiff's Title VII claims fail because A&M System was not Plaintiff's employer and Plaintiff cannot establish a prima facie case of discrimination or retaliation against TAMU. Lastly, Plaintiff does not have a private cause of action for the alleged violations of the Texas Penal Code Section 37-10 ("Tampering with Governmental Records") or the Texas A&M System Regulations 08.01.01 and 33.99.01.

For the reasons stated here and in Defendants' opening brief, Defendants Texas A&M University and A&M System respectfully request that the Court grant their Motion to Dismiss Plaintiff's Amended Complaint and dismiss with prejudice all of Plaintiff's claims in their entirety.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

BRANTLEY STARR
Deputy First Assistant Attorney General

JAMES E. DAVIS
Deputy Attorney General for Civil Litigation

ANGELA V. COLMENERO
Chief, General Litigation Division

/s/ Yvonne D. Bennett

YVONNE D. BENNETT

Texas Bar No. 24052183

Southern District No. 814600

Attorney-in-Charge

Assistant Attorney General

Office of the Attorney General

P.O. Box 12548

Austin, Texas 78711-2548

Phone: 512-463-2120 and Fax: 512-320-0667

Email: yvonne.bennett@oag.texas.gov

ATTORNEYS FOR DEFENDANTS
TEXAS A&M UNIVERSITY and
TEXAS A&M UNIVERSITY SYSTEM

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been served via PACER
electronic notification and email on this 17th day of May 2018, on:

Kamme O
Pro Se Plaintiff
3503 Winding Road
Hearne, Texas 77859
Telephone: 979-575-1091
AggieCarpenterMom@gmail.com

/s/ Yvonne D. Bennett
YVONNE D. BENNETT
Assistant Attorney General